

REMARKS

Applicant acknowledges receipt of the Office Action dated March 22, 2005, in which the Examiner rejected claims 1-38 as obvious in view of White (US5339252).

Applicant respectfully traverses the rejections for the reasons set out below.

§ 103 Rejection

Applicants have amended the independent claims 1, 10, 18, 28 and 31 to require that the instructions that are used to construct the orthotic device include customizations or modifications made by a practitioner. Nothing in the White reference suggests or provides for any prescriptive approach to ordering and manufacturing. Rather, White and the other references are directed at providing better matching between feet and shoes while reducing the amount of inventory required to be kept on hand. The references make no mention of altering the computer-measured foot data so as to produce an shoe having an altered surface configuration. Hence, the reference do not render obvious the present application, in which the prescriptive modifications suggested by the practitioner are included into the computer file, resulting in desirable features and superior responsiveness.

For all of these reasons, Applicant respectfully requests that the Examiner reconsider and withdraw the obviousness rejection.

New Claims

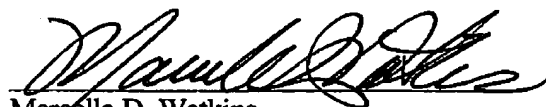
Applicants have added new claims 39-43, which each recite a Markush group of possible software functions that could be used to generate the modifications recited in the independent claims. The new claims contain subject matter that is disclosed in paragraphs [0081] – [0084] and therefore does not constitute new matter.

None of the art of record teaches or suggests any modification of the data file by a practitioner once it is collected, let alone the specific types of modifications that are provided by the present invention. Applicants therefore also request that the Examiner consider and allow the new claims.

Conclusion

Applicants believe that they have responded to each grounds for rejection and therefore respectfully request that the Examiner reconsider and withdraw the rejections. If the Examiner has any questions or otherwise feels it would be advantageous, he is encouraged to telephone the undersigned at (713)238-8043.

Respectfully submitted,



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